

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

CLINTON B. CURTICE,

Plaintiff,

versus

CIVIL ACTION NO. 1:06-CV-794

MICHAEL J. ASTRUE,¹
Commissioner of Social Security
Administration,

Defendant.

MEMORANDUM OPINION AND ORDER

The Court heretofore ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, for consideration pursuant to applicable law and orders of this Court. The Court has received and considered the Report of the United States Magistrate Judge pursuant to such order, along with the record, pleadings and all available evidence.

Pending is defendant's motion to remand. (Docket No. 6.) Defendant requests remand of this action for further administrative proceedings to locate the administrative file of plaintiff's claim, and if none found, for a *de novo* hearing before an Administrative Law Judge.

Defendant filed the motion on February 16, 2007. The Docket reflects that plaintiff has not filed his response, brief, and supporting documents opposing the motion. Thus, under Local Rule CV-7, defendant's motion is unopposed. See Local Rule CV-7(d) ("In the event a party fails to

¹ Michael J. Astrue was appointed Commissioner of Social Security Administration on February 12, 2007, succeeding Acting Commissioner Linda S. McMahon, who succeeded Commissioner Jo Anne Barnhart. He is automatically substituted as a party pursuant to 42 U.S.C § 405(g) and Rule 25(d)(1), Federal Rules of Civil Procedure.

oppose a motion in the manner prescribed herein, the court will assume that the party has no opposition.”). Moreover, the court finds that defendant’s motion is meritorious. See 42 U.S.C. § 405(g) (“The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner’s answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security”). It is therefore

ORDERED that defendant’s “motion to remand,” (see Docket No. 6), is **GRANTED**.

An Order of Remand will be entered separately in accordance with this Memorandum Opinion.

SIGNED at Beaumont, Texas, this 14th day of March, 2007.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE